

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

ADVANTAGE INSURANCE SERVICES)	
INC. and ROBERT ROMANO,)	
)	
Plaintiffs,)	Case No. 3:23-cv-00821
)	
v.)	Judge William L. Campbell, Jr.
)	Magistrate Judge Alistair Newbern
THOMAS ROULE and KELLY ROULE,)	
)	
Defendants.)	
)	

ENTRY OF DEFAULT

Pending is Plaintiffs' renewed Motion for Entry of Default against Thomas Roule and Kelly Roule pursuant to Federal Rule of Civil Procedure 55(a) (Doc. No. 35). For the following reasons, Plaintiffs' Motion is **GRANTED**.

Plaintiffs filed this action on August 7, 2023. (Doc. No. 1). On August 14, 2023, Plaintiff returned two Waiver of Service of Summons forms executed on behalf of Thomas Roule and Kelly Roule by attorney Robin J. Gordon. (Doc. No. 10 and 11). On October 9, 2023, Defendants filed an Answer and Counterclaim. (Doc. No. 15). On February 27, 2024, counsel for Defendants filed a Motion to Withdraw. (Doc. No. 26). On February 29, 2024, the Court granted the Motion to Withdraw and gave Defendants until April 1, 2024, to retain new counsel and have them enter an appearance or notify the Court that they intend to proceed *pro se*. (Doc. No. 31).

Plaintiffs filed their first Motion for Entry of Default on April 4, 2024. (Doc. No. 32). The Clerk denied the Motion without prejudice because Plaintiff's supporting declaration failed to provide required information regarding the age, competency, or military status of Defendants as required by Local Rule 55.01(iii) and (iv). The Clerk found that Defendants had satisfied all other

requirements. Plaintiffs pending Motion successfully remedies the prior defects by verifying that the Defendants are not minors, incompetent, or in the military service. (Doc. No. 35 at PageID #: 159-160, 162, and 165).

Pursuant to Local Rule 55.01,

Motions for entry of default under Fed. R. Civ. P. 55(a) must be accompanied by an unsworn declaration under penalty of perjury under 28 U.S.C. § 1746 verifying, among other things, (i) proof of service; (ii) the opposing party's failure to plead or otherwise defend; *(iii) if the opposing party is an individual, that the opposing party is not a minor or incompetent person; and (iv) if the opposing party is an individual, that the opposing party is not in the military service, as required by 50 U.S.C. § 3931(b)(1).* Evidence from the Defense Manpower Data Center, or other reliable source, confirming that the opposing party is not in the military service must be appended to the unsworn declaration.

L.R. 55.01 (emphasis added). Plaintiff submits the Declaration of Kyle L. Flynn in support of its Motion. (Doc. No. 35 at PageID #: 159). Plaintiff has satisfied all prongs of Local Rule 55.01 and Federal Rule 55(a). “When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default.” Fed. R. Civ. P. 55(a). Accordingly, Plaintiffs’ renewed Motion for Entry of Default against Thomas Roule and Kelly Roule, (Doc. No. 35), is **GRANTED**.

s/ Lynda M. Hill
Lynda M. Hill
Clerk of Court